

### REMARKS

The Office Action mailed November 4, 2003, has been received and reviewed. The withdrawal of the objections and rejection set forth in the prior Office Action is noted with appreciation. Claims 2, 4, 11, 14, 15, 19 through 22, 24 and 25 are currently pending in the application. Claim 20 has been withdrawn from consideration. Claims 2, 4, 11, 14, 15, 19, 21, 22, 24 and 25 stand rejected. Applicants have canceled claims 2, 14, 20, 22 and 25 and amended claims 4, 11, 19, 21 and 24, and respectfully request reconsideration of the application.

#### Priority

The Office Action identified that applicants had not yet provided a claim for priority to obtain the benefit of the foreign filing date of EP 96201945.1, noting that an unsigned declaration had been provided to support the claim. On April 19, 2002, applicants filed a Communication with the Office transmitting a signed Supplemental Declaration containing a claim to priority. A copy of the Communication and the executed Supplemental Declaration is attached as Exhibit A. A certified copy of EP 96201945.1 is also submitted with this Amendment. Accordingly, applicants respectfully request these submitted documents be accepted and the benefit of the foreign filing date under 35 U.S.C. § 119 be accorded.

#### 35 U.S.C. § 112, First Paragraph Rejections

Claim 21 and dependent claim 24 were rejected in the Office Action as assertedly lacking enablement under 35 U.S.C. § 112, first paragraph with respect to being drawn to “vaccines.” The Examiner recommended amending claims 21 and 24 to more broadly recite “an immunogenic composition comprising the peptide of claim 4” to obviate this objection. Applicants have amended independent claim 21 as suggested by the Examiner. It is respectfully requested this rejection be withdrawn.

Claims 2, 4, 11, 14, 15, 19, 21, 22, 24 and 25 were rejected in the Office Action as assertedly lacking enablement under 35 U.S.C. § 112, first paragraph, with respect to language “wherein said peptide is able to induce an increased binding affinity towards lymphocytes.” The Examiner recommended amending the claims to recite “for example, ‘wherein said peptide has

an increased binding affinity for HLA-A\*0201” to obviate this objection (Office Action at page 5). Claims 2, 14, 22 and 25 have been canceled rendering this rejection moot as to them. With respect to the remaining claims, independent claims 4 and 11 have been amended as suggested by the Examiner, and claims 15, 19, 21 and 24 depend therefrom. Accordingly, it is respectfully requested this rejection be withdrawn.

### **35 U.S.C. § 112, Second Paragraph Rejections**

Claims 2, 4, 11, 14, 15, 19, 21, 22, 24 and 25 were rejected in the Office Action as assertedly indefinite under 35 U.S.C. § 112, second paragraph, with respect to language “wherein said peptide is capable of inducing an increased binding affinity towards lymphocytes.” Claims 2, 14, 22 and 25 have been canceled rendering this rejection moot as to them.

With respect to the remaining claims, claims 4, 11 and 21 have been amended along the lines suggested by the Examiner to remove this language, and claims 15, 19 and 24 depend therefrom. Accordingly, it is respectfully requested this rejection be withdrawn.

### **35 U.S.C. § 102 Rejections**

#### *Anticipation Rejection Based on US Patent 5,844,075*

Claims 2, 11, 22 and 25 were rejected in the Office Action as assertedly being anticipated under 35 U.S.C. § 102(e) by US Patent 5,844,075. Claims 2, 22 and 25 have been canceled, rendering this rejection moot as to them. With respect to claim 11, applicants respectfully submit that amended claim 11 defines over the cited reference.

The Office Action states that:

the prior art discloses the subject matter of claim 2, which is a peptide comprising the amino acid sequence set forth as SEQ ID NO: 2. SEQ ID NO: 2 is the amino acid sequence of SEQ ID NO: 9 but for the replacement of threonine at position 2 by valine. The prior art teaches a peptide comprising SEQ ID NO: 9 and teaches that the second amino acid of this peptide, which is a threonine, can be replaced by valine. (Office Action at page 7).

As amended herein, claim 11 now recites: “reacting said tumor infiltrating lymphocytes with a peptide comprising the amino acid sequence of SEQ ID NO:1, and wherein said peptide

has an increased binding affinity towards HLA-A\*0201, or HLA-A\*0201 expressing lymphocytes, compared to a peptide comprising the sequence of SEQ ID NO:9, to form an antigen-lymphocyte complex.”. This is similar to the language suggested by the Examiner in amended claim 4. Support for this amendment may be found in the as-filed specification at page 15, page 25 and in Table III on page 30. Applicants thus respectfully submit that amended claim 11 contains elements not taught or suggested in the cited reference.

*Anticipation Rejection Based on Bakker et al.*

Claims 4, 21 and 24 were rejected in the Office Action as assertedly being anticipated under 35 U.S.C. § 102(a) by Bakker et al. (*International Journal of Cancer*, 70: 302-309, 1997). The Office Action states that this rejection may be obviated “by filing a claim for benefit of the earlier filing date of EP96201945.1, as required by 35 U.S.C. 119(b), and providing a certified copy of said priority document.” A certified copy of the priority document accompanies this Amendment and the required claim was submitted with the Declaration filed on April 19, 2002 (copy attached as Exhibit A). Accordingly, it is requested this rejection be withdrawn.

**35 U.S.C. § 103 Rejections**

Claims 2, 11, 14, 19, 22 and 25 were rejected in the Office Action as assertedly being unpatentable under 35 U.S.C. § 103(a) over US Patent 5,844,075. Claims 2, 14, 22 and 25 have been canceled, rendering this rejection moot as to them.

With respect to claims 11 and 19, claim 11 has been amended as discussed previously herein to include elements not disclosed in US Patent 5,844,075. Applicants respectfully submit these elements are not taught or suggested in this reference and request this rejection be withdrawn. Amended claim 19 depends from claim 15 and is allowable as depending from an otherwise allowable base claim.


**CONCLUSION**

All claims, as amended herein, are believed to be in condition for allowance, and an early notice thereof is respectfully solicited. Should the Office determine that additional issues remain

**Serial No. 09/214,836**

which might be resolved by a telephone conference, the Examiner is respectfully invited to contact Applicant's undersigned attorney.

Respectfully submitted,

  
Bretton L. Crockett  
Registration No. 44,632  
Attorney for Applicants  
TRASKBRITT, P.C.  
P.O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: 801-532-1922

Date: March 4, 2004  
BLC/sdd

Attachments: Exhibit A--Copy of Communication and Supplemental Declaration submitted  
April 19, 2002 with copy returned postcard  
Certified copy of EP 96201945.1

Document in ProLaw

## EXHIBIT A

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re Application of:**

Figdor et al.

**Serial No.:** 09/214,836

**Filed:** October 4, 1999

**For:** MELANOMA ASSOCIATED PEPTIDE  
ANALOGUES AND VACCINES AGAINST  
MELANOMA

**Examiner:** S. Rawlings, PhD

**Group Art Unit:** 1642

**Attorney Docket No.:** 4230US

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence along with any attachments referred to or identified as being attached or enclosed is being deposited with the United States Postal Service as First Class Mail (under 37 C.F.R. § 1.8(a)) on the date of deposit shown below with sufficient postage and in an envelope addressed to the Commissioner for Patents, Washington, D.C. 20231.

4-19-02  
Date of Deposit

*Lynette Eliason*  
Signature of registered practitioner or other person having reasonable basis to expect mailing to occur on date of deposit shown pursuant to 37 C.F.R. § 1.8(a)(1)(ii)

*Lynette Eliason*  
Typed/printed name of person whose signature is contained above

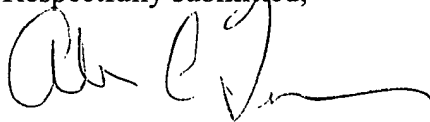
**COMMUNICATION**

Commissioner for Patents  
Washington, D.C. 20231

Sir:

Enclosed is a Supplemental Declaration for Patent Application (With Power of Attorney) for the above-referenced application.

Respectfully submitted,



Allen C. Turner  
Registration No. 33,041  
Attorney for Applicants  
TRASKBRITT, PC  
P. O. Box 2550  
Salt Lake City, Utah 84110-2550  
Telephone: (801) 532-1922

April 19, 2002

## SUPPLEMENTAL DECLARATION FOR PATENT APPLICATION (WITH POWER OF ATTORNEY)

As an inventor named below or on any attached continuation page, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name.

I believe that I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled MELANOMA ASSOCIATED PEPTIDE ANALOGUES AND VACCINES AGAINST MELANOMA, the specification of which (check one):

☐ is attached hereto.

☒ was filed on October 4, 1999 as United States application serial no. 09/214,836 and was amended on .

☐ was filed on \_\_\_\_\_ as PCT international application no. \_\_\_\_\_ and was amended under PCT Article 19 on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to the patentability of the subject matter claimed in this application, as "materiality" is defined in Title 37, Code of Federal Regulations § 1.56.

I hereby claim foreign priority benefits under Title 35, United States Code, § 119(a)-(d) or § 365(b) of any foreign application(s) for patent or inventor's certificate or § 365(a) of any PCT international application(s) designating at least one country other than the United States of America listed below and on any attached continuation page and have also identified below and on any attached continuation page any foreign application for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America having a filing date before that of the application(s) on which priority is claimed.

Prior foreign/PCT application(s):

<u>96201945.1</u> (number)	EP (country)	<u>11/07/96</u> (day/month/year filed)	Priority Claimed <u>X</u> Yes	No
(number)	(country)	(day/month/year filed)	Yes	No

I hereby claim the benefit under Title 35, United States Code, § 120 of any United States application(s) or § 365(c) of PCT international application(s) designating the United States of America listed below and on any attached continuation page and, insofar as the subject matter of each of the claims of this application is not disclosed in any such prior application in the manner provided by the first paragraph of Title 35, United States Code, § 112, I acknowledge the duty to disclose to the U.S. Patent and Trademark Office all information known to me to be material to patentability as defined in Title 37, Code of Federal Regulations § 1.56 which became available between the filing date of such prior application and the national or PCT international filing date of this application:

<u>PCT/EP97/03712</u> (application serial no.)	<u>08/07/97</u> (filing date)	<u>published</u> (status - pending, patented or abandoned)
(application serial no.)	(filing date)	(status - pending, patented or abandoned)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

\_\_\_\_\_  
(provisional application no.)

\_\_\_\_\_  
(filing date)

I hereby appoint the following Registered Practitioners to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

David V. Trask, Reg. No. 22,012  
Joseph A. Walkowski, Reg. No. 28,765  
Allen C. Turner, Reg. No. 33,041  
Bruce E. Hayden, Reg. No. 35,539  
Devin R. Jensen, Reg. No. 44,805  
Shawn G. Hansen, Reg. No. 42,627  
Andrew F. Nilles, Reg. No. 47,825

William S. Britt, Reg. No. 20,969  
James R. Duzan, Reg. No. 28,393  
Edgar R. Cataxinos, Reg. No. 39,931  
Brick G. Power, Reg. No. 38,581  
Krista Weber Powell, Reg. No. 47,867  
Bretton L. Crockett, Reg. No. 44,632  
Katherine A. Hamer, Reg. No. 47,628

Laurence B. Bond, Reg. No. 30,549  
H. Dickson Burton, Reg. No. 48,396  
Kent S. Burningham, Reg. No. 30,453  
Paul C. Oestreich, Reg. No. 44,983  
David L. Stott, Reg. No. 43,937  
Bradley B. Jensen, Reg. No. 46,801

Address all correspondence to:

Allen C. Turner, telephone no. (801) 532-1922.  
TRASKBRITT  
P.O. BOX 2550  
Salt Lake City, Utah 84110

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full name of first joint inventor: Carl Gustav Figdor

Inventor's signature \_\_\_\_\_

Residence: Hertogenbosch, The Netherlands

Citizenship: Dutch

Post Office Address: Westwal 54, NL-5211 DD's Hertogenbosch, The Netherlands

Date

March 18, 2002

SUPPLEMENTAL DECLARATION FOR PATENT APPLICATION  
(continuation page)

- Invention title: MELANOMA ASSOCIATED PEPTIDE ANALOGUES AND VACCINES AGAINST MELANOMA

Inventor name(s) appearing on first declaration page: Carl Gustav Figdor

☒ Additional original, first and joint inventor(s):

Full name of second joint inventor: Gosse Jan Adema

Inventor's signature

Residence: Groesbeek, The Netherlands

Citizenship: Dutch

Post Office Address: Haydnstraat 53, NL-6561 ED Groesbeek, The Netherlands

Date

March 18, 2002



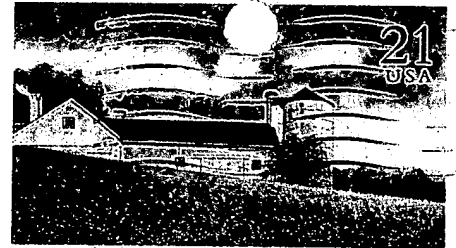
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THE PATENT & TRADEMARK OFFICE MAILROOM DATE  
STAMPED. HEREON IS AN ACKNOWLEDGEMENT THAT ON THIS  
DATE THE PATENT & TRADEMARK OFFICE RECEIVED:

Communication; and Supplemental Declaration for Patent Application  
(With Power of Attorney).

Invention: MELANOMA ASSOCIATED PEPTIDE  
ANALOGUES AND VACCINES AGAINST  
MELANOMA  
Applicant(s): Figdor et al.  
Filing Date: 10/4/1999  
Serial No.: 09/214,836  
Date Sent: April 19, 2002 via first class mail  
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ACT/le



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MAY 06 2002  
Trask Britt

TRASKBRITT  
P.O. Box 2550  
Salt Lake City, UT 84110-2550

